

Applicants: Christina Kabbash et al.
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REMARKS

Claims 1-12, 60-75 and 78-82 are pending in the subject application. Claims 60-75 are allowed. By this Amendment, applicants have amended claim 1 and canceled claims 78-82 without prejudice. Support for the amendments to claim 1 may be found in the specification at, inter alia, page 9, line 2 to page 10, line 4. Applicants maintain that these amendments raise no issue of new matter. Accordingly, claims 1-12 and 60-75 will be pending, and claims 1-12 under examination, upon entry of this Amendment.

December 16, 2005 Examiner's Interview

On December 16, 2005, Examiner D. L. Jones conducted a telephonic interview with the undersigned attorney, Alan J. Morrison, regarding the outstanding rejections of claims 1-12 and 78-82 under 35 U.S.C. §112. Applicants wish to thank the Examiner for her time and consideration during the interview. In sum, it was agreed that, barring the Examiner identifying any addition support for the pending rejections, these rejections would be withdrawn upon entry of the amendments made herein.

35 U.S.C. §112, First Paragraph Rejections

The Examiner rejected claims 1-12 and 78-82 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement.

Specifically, the Examiner stated that claim 1 has been amended to replace $(CH_2)_pX(R_7)_2$ with $(CH_2)_p(R_7)_2$; $(CH_2)_pXR_7COR_8$ with $(CH_2)_pR_7COR_8$; $(CH_2)_pX(CH_2)$ with $(CH_2)_p(CH_2)$; and $(CH_2)_pXCOH$ with $(CH_2)_pCOH$. The

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Examiner alleged that applicants have not pointed out support for these amendments.

In response, but without conceding the correctness of the Examiner's rejection, applicants have amended claim 1 to remove recitation of all substituents which previously contained the variable "X" in their formulae.

Furthermore, the Examiner stated that claim 1 has been amended to incorporate the phrase "wherein the linkage to the benzene ring by R1, R2, R3, R4, and R5 is independently selected from the group consisting of N, S, O, and C." The Examiner alleged that the amendment to the claim 1 now requires that there be a linkage to the benzene ring by R1, R2, R3, R4, or R5 and that the compounds present in the specification, in particular gemfibrozil, do not contain a linkage to R1, R2, R3, R4, or R5.

In response, but without conceding the correctness of the Examiner's rejection, applicants have amended claim 1 to remove the phrase objected to by the Examiner.

Finally, the Examiner stated that claims 78-82 have been amended to a method of determining whether or not a bacterium is sensitive to gemfibrozil having the steps of independent claim 78. The Examiner alleged that the specification does not disclose that a specific *Legionella pneumophilia* concentration is determined and used to determine whether other bacteria are sensitive to gemfibrozil.

In response, but without conceding the correctness of the Examiner's rejection, applicants note that claims 78-82 have been cancelled. Accordingly, this rejection is now moot.

In view of the above, applicants maintain that the pending claims

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satisfy the provisions of 35 U.S.C. §112, first paragraph.

35 U.S.C. §112, Second Paragraph Rejections

The Examiner rejected claims 1-12 under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Specifically, the Examiner alleged that claims 1-12 as written are ambiguous because of the phrase "wherein the linkage to the benzene ring by R1, R2, R3, R4, and R5 is independently selected from the group consisting of N, S, O, and C."

In response, but without conceding the correctness of the Examiner's rejection, applicants again note that the phrase objected to has been deleted. Accordingly, this rejection is obviated.

In view of the above, applicants maintain that the pending claims satisfy the provisions of 35 U.S.C. §112, second paragraph.

Summary

Applicants maintain that the pending claims are in condition for allowance, and respectfully request that this application proceed to allowance.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorneys invite the Examiner to telephone them at the number

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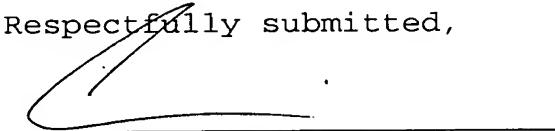
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provided below.

No fee is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, authorization is hereby given to charge the amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,


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| I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450 Arlington, VA 22313-1450, Mail Stop AF | |
| Alan J. Morrison Reg. No. 37,399 | 1/3/06 Date |